



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN - 3 2010

Honorable Keith O. Moore
Director
Bureau of Indian Education
1849 C St. NW
MS 3609 MIB
Washington, D.C. 20240

Dear Director Moore:

Thank you for the timely submission of the Bureau of Indian Education's (BIE) Federal fiscal year (FFY) 2008 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA section 616(d), the BIE needs assistance in meeting the requirements of Part B of IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2008 APR and revised SPP, other State-reported data, and information obtained through verification visits and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2010: Part B" for further details.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for the BIE include that the BIE's FFY 2008 data reflect 93.49% compliance for Indicator 15 and 92.04% compliance for Indicator 20. The BIE also reported outstanding findings from FFY 2006 under Indicator 15. OSEP also considered that BIE did not publicly report consistent with 34 CFR §300.602(b)(1)(i)(A) on the performance of elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior on Indicators 3A, 3B, 3C, 5A, 5B, 5C, and 11 based on the FFY 2006 and FFY 2007 data. For these reasons, we are unable to determine that the BIE met requirements for FFY 2008 under IDEA section 616(d).

OSEP notes other areas that reflect a high level of performance, which include that the BIE reported valid and reliable data for all indicators and a high level of compliance for Indicator 16 (100%). We hope that the BIE will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the BIE's FFY 2008 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources), and baseline data in the State's SPP. The table also identifies, by indicator: (1) the BIE's reported FFY 2008 data; (2) whether such data met the BIE's FFY 2008 targets and reflect progress or slippage from prior year's data; (3) if applicable, that the BIE's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

The BIE may want to consider taking advantage of available sources of technical assistance. A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the "Technical Assistance Related to Determinations" box on the opening page of the

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www.ed.gov

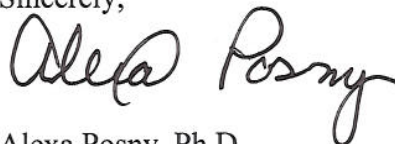
The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

SPP/APR Planning Calendar website at <http://spp-apr-calendar.rrfcnetwork.org/>. You will be directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator.

As you know, pursuant to IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A), the BIE must report annually to the public on the performance of each BIE-funded school on the targets in the SPP as soon as practicable, but no later than June 1, 2010. In addition, the BIE must: (1) review school performance against targets in the State's SPP; (2) determine if each school "meets requirements of Part B," or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the IDEA; (3), take appropriate enforcement action; and (4) inform each school of its determination. 34 CFR §300.600(a)(2) and (3). For further information regarding these requirements, see the SPP/APR Planning Calendar website at: <http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/656>. Finally, if the BIE included revisions to baseline, targets or improvement activities in its APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on the BIE's website and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

OSEP is committed to supporting the BIE's efforts to improve results for children and youth with disabilities and looks forward to working with the BIE over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Matthew Schneer, your OSEP State Contact, at 202-245-6755.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexa Posny". The signature is fluid and cursive, with the first name "Alexa" and last name "Posny" clearly distinguishable.

Alexa Posny, Ph.D.
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education